



Comment Set #3

April 4, 2006

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Ms. Valerie Van Way California State
Lands Commission 100 Howe Avenue,
Suite 100-South Sacramento, CA 95825

Dear Ms. Van Way:

TRAC, Hie Trails for Richmond Action Committee, offers these comments on the February 2006 Draft Environmental Impact Report for the Chevron Richmond Long Wharf Marine Terminal Lease Consideration. TRAC's comments below address impacts concerning Recreation, Land Use, Transportation and Planning.

Overall, the EIR must undertake a comprehensive and detailed evaluation of the project's potential environmental impacts, identification of mitigation measures for those impacts, and formulation of alternatives to the project that would involve fewer and less severe environmental impacts. The proposed new lease would create significant adverse transportation, recreation and land use impacts and raise serious issues regarding inconsistency with adopted plans — all of which must be fully mitigated if the lease is to be granted.

This EK. is especially important because the proposed new lease of State lands for operation of Long Wharf will prolong operation of this marine terminal at a time when the surrounding Chevron lands devoted to equipment directly related to Long Wharf operations have become obstacles for closing Bay Trail gaps linking the rest of the City of Richmond with Point Molate and the entire Point San Pablo Peninsula, as well as with the Richmond/San Rafael Bridge. Closure of these Bay Trail gaps is critical because the Point San Pablo Peninsula is slated to become a major regional destination offering a diverse array of recreational opportunities with scenic, cultural and natural features of regional significance.

The DEIR recognizes (page 4.5-15, last paragraph):

"Granting a new lease for Long Wharf operations offers the opportunity to examine the potential for any adverse impacts to public access opportunities along this section of the Bay Trail segment linking Point Richmond with Point Molate. In addition, if the lease were denied, the shoreline facilities supporting the Long Wharf could be removed. With this area open, a trail could go through the area with no direct conflicting land uses, and the land could serve as safely buffer between the trail and the Refinery."

However, the DEIR does not recommend mitigation for the significant adverse planning, recreational, transportation and land use impacts of a new lease

3-1

A critical point is that the heavily traveled 1-580 corridor separates crude oil refining operations from the planned Bay Trail route south of 1-580. Hence, the obstacle to completing the Bay Trail is Long Wharf and its operations — not the refining operations.

3-2

Inconsistency With Adopted Plans

Consistency with adopted plans is a major factor under CEQA as described in the Attachment B quotations from letters prepared by Communities for a Better Environment (CBE) and Shute, Mihaly and Weinberger in connection with another project in Richmond. As pointed out by CBE: "Consistency of projects to General Plans and other planning documents is relevant to CEQA review itself. CEQA requires the DEIR to discuss inconsistencies with general and regional plans. Guidelines § 15125(d)."

3-3

Entering into a new lease without appropriate mitigation would be inconsistent with:

- Richmond General Plan,
- Contra Costa Countywide Bicycle and Pedestrian Plan,
- ABAG's San Francisco Bay Trail Plan and
- MTC's Regional Bicycle Plan

All of these adopted local and regional plans call for a Bay Trail connection between the Point Richmond area and the Richmond/San Rafael Bridge, as well as with the shoreline of the Point San Pablo Peninsula.

The DEIR does not acknowledge the severe conflicts with Richmond 1994 General Plan provisions for the West Shoreline, which state:

- "Establish a public access trail plan line from Point Richmond to Point San Pablo including a pedestrian trail from Keller Beach to the Richmond-San Rafael Bridge and a bicycling trail from 1-580 along Western Drive to the tip of Point San Pablo." (Open Space and Conservation Element) and
- "Encourage the creation of a recreational corridor along the western shore of Point San Pablo through trail connections between parks and commercial recreation sites." (Community Facilities Element).

3-4

A new lease without appropriate mitigation also would conflict with the Contra Costa Countywide Bicycle and Pedestrian Plan, ABAG's Bay Trail Plan and MTC's Regional Bicycle Plan. Subsequent to adoption of the General Plan, both ABAG and Contra Costa County established specific Bay Trail routes for this location. As shown on the Attachment A map, ABAG's Bay Trail Plan (<http://www.baytrail.org/map.html>) includes a multi-use Class I trail from the Point Richmond neighborhood to the Richmond/San Rafael Bridge and north along the shoreline of Point San Pablo Peninsula passing through Point Molate and the Winehaven Historic District around Point San Pablo to the Point San Pablo Yacht Harbor. The Contra Costa Countywide Bicycle and Pedestrian Plan, which was adopted December 17, 2002, includes this same hiking and biking trail route on Figure 2. These Bay Trail plans also are included in MTC's December 2001 Regional Bicycle Plan.

3-5

Non-vehicular public access to the Point San Pablo Peninsula is critical. The DEIR does not recognize the May 2005 San Pablo Peninsula Open Space Study by California State Coastal Conservancy, Chevron Richmond Refinery, City of Richmond, East Bay Regional Park District, Muir Heritage Land Trust and Trails for Richmond Action Committee. This collaborative report calls for:

"....developing Point San Pablo (Terminal 4) for public recreation use, establishing a park along the Point Molate shoreline, preserving the western slopes of the Peninsula as protected open space, providing interpretive facilities to highlight the Peninsula's unique

3-6

amenities, and establishing the Bay Trail along the shoreline." The DEIR also does not recognize that the City of Richmond has signed a Land Disposition Agreement (LDA) for sale of former Point Molate Naval Fuel Depot. This LDA requires completion of the San Francisco Bay Trail with extensive public park and recreational facilities along the 1.4 miles of shoreline as well as in the uplands of Point Molate.

3-7

The Bay Trail Route Has Been Planned Across Chevron Lands

Caltrans has built a Bay Trail segment under the Richmond/San Rafael Bridge connecting the south side of the toll plaza with the north side of the 1-580 corridor. However, contrary to the third paragraph under Recreational Opportunities on page 4.5-4, there is no pedestrian access to 1-580, and bicycle access is hazardous because it requires bicycling on the sides of the freeway and its exit ramps. Contrary to the last sentence of the third paragraph under Recreational Opportunities on page 4.5-4, there is no trail continuing north to Castro Point or along the shoreline to Point Molate.

3-8

The problem is that Chevron lands on both sides of the 1-580 corridor block Bay Trail connections to both Richmond residential areas and Point Molate. To address the gap on the south side of I-580, Chevron and ABAG's Bay Trail Project jointly funded a study managed by the City of Richmond on access to the Point San Pablo Peninsula. This resulted in the July 31, 2001 "Feasibility Study of Bay Trail Routes to Point San Pablo Peninsula" by Questa Engineering Corporation & F.E. Jordan Associates, Inc. with an August 30, 2001 Addendum email from Questa. (This report and addendum may be obtained from Jeff Peters of Questa at 510-236-6114 or email jpeters@questaec.com.) The Steering Committee for the study reached a consensus that Option 2 represents the best route across Chevron land when considering cost and Long Wharf security needs in conjunction with the pleasure and safety of trail users.

3-9

Addressing Chevron's concerns about safety and security, Questa's 8/30/01 Addendum email to the City of Richmond's Project Manager for the study stated, "... (Steering) committee members felt that safety and security issues could be managed through good trail design, fencing, and use of buffer strips and fire clearance zones, periodic patrols, and sunset closure." 1-580 and the Western Drive exit to Point Molate already pass by Chevron tanks and over Chevron pipelines. Caltrans traffic count data show that an average of 76,000 vehicles/day crossed the Richmond/San Rafael bridge during 2004 passing directly over and past Chevron's pipelines connecting Long Wharf with the refining facilities. In addition, the west ends of Ocean Avenue, Western Drive, Lobos Avenue, Golden Gate Avenue and Tewksbury Avenue in Point Richmond all offer easy access to Chevron property on the south side of the 1-580 corridor. Public roads pass through at least two other refineries in Contra Costa County.

3-10

In a September 14, 2001 email, Chevron's Public Affairs Manager Marielle Boortz stated:

1. "We each agreed to further explore the option 2 route since it appears to possibly have most merit".
2. "Scott and I agreed to pursue internally how this could be achieved and what our next steps would be".

3-11

However, almost five years have passed without any "next steps".

The December 17, 2002 Contra Costa Countywide Bicycle and Pedestrian Plan, adopted Questa's Option 2 & 5 route and designated this gap as a "Priority Corridor", stating "... Bay Trail access to San Pablo Peninsula is also needed from Tewksbury Avenue in Richmond across the 1-580 corridor, on to the Richmond-San Rafael Bridge and through Point Molate and Point San Pablo to the Point San Pablo Yacht Harbor as part of the planned regional shoreline park."

3-12

Conclusions

The legislature declared in Section 21002 of CEQA that ".... public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects" It is clear from the discussion above that a new Long Wharf lease would create significant direct, indirect and cumulative transportation, land use and recreational impacts and also be inconsistent with adopted plans of the City of Richmond, Contra Costa County, ABAG and MTC. Hence, in the absence of findings pursuant to CEQA Section 21081, CSLC must either deny the lease or adopt measures to avoid or mitigate the impacts of entering into it.

3-13

The DEIR recognizes the conflict Long Wharf's shoreline facilities create with Bay Trail plans but misses the point in stating "Refinery property and associated operations are separate from Long Wharf operations, are not part of the proposed lease and are not under the jurisdiction of the CSLC" (last paragraph on page 4.5-16). There are no refining facilities between Long Wharf and 1-580 or on the north side of 1-580 between the shoreline and Western Drive. These significant impacts result solely from the location and operation of Long Wharf with its directly associated and necessary infrastructure of pipelines and other equipment, which are continuous from the Long Wharf onto the adjacent upland property and under 1-580. Long Wharf and the adjacent upland facilities south of 1-580 constitute a single inseparable operation. The last paragraph on the prior page of the DEIR correctly states ".... if the lease were denied, the shoreline facilities supporting the Long Wharf could be removed. With this area open, a trail could go though the area with no direct conflicting land uses, and the land could serve as safety buffer between the trail and the Refinery." The shoreline facilities are clearly integral to the operations on the wharf and causeway and wouldn't be required if there were no lease. Therefore, the impacts result directly from the operations under the lease.

3-14

As mitigation, Chevron should be required to provide:

1. public access easements for a two-way, multi-use Class I Bay Trail segments connecting:
 - a. Tewksbury Avenue with the existing trail on the south side of the Richmond/San Rafael Bridge toll plaza area and
 - b. the north side of 1-580 corridor with the City of Richmond's former Point Molate Naval Fuel Depot via the planned shoreline Bay Trail route and
2. funds to design, permit and build the Option 2 Bay Trail in the 7/31/01 Questa Feasibility Study of Bay Trail Routes to the Point San Pablo Peninsula.

Adoption of these requirements would help mitigate the adverse land use, planning, transportation and recreational impacts associated with the lease of State lands.

The statutory provisions establishing and governing the CSLC and CEQA clearly give the Commission authority to require this mitigation. Section 6301 of the California Public Resources Code, which provides for the Commission having exclusive jurisdiction over submerged lands, states that the Commission "may lease... such lands, as provided by law, upon such terms and for such consideration, if any, as are determined by it." Section 6371 requires the Commission to comply with the EIR requirements of CEQA before leasing any of its lands. Section 21081 of CEQA bars an agency from approving any project for which an EIR has been certified and which identifies one or more significant effects on the environment unless changes or alterations are required which mitigate the effects. Therefore Section 6301 allows the CSLC to include conditions in its lease which involve property not owned by it, and Sections 6371 and 21081 require it to mitigate, even where impacts occur with respect to properties not owned by it.

3-15

Thank you for considering TRAC's comments. Please let me know if you would like clarification. TRAC would appreciate receiving a copy of the Final EER. and other correspondence relating to this

proposed new lease.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Beyaert", with a stylized, flowing script.

Bruce Beyaert, TRAC Chair

Attachments - A. Richmond Bay Trail map

B. Consistency with Adopted Plans is a Major Factor Under CEQA

cc: Linda Brody - Chambers Group
LeeHuo-ABAG David Lewis-
STB Brad Olson - EBRPD Robert
Raburn - EBBC

Response to Comment Set #3

3-1

The Project's area is defined as the area surrounding the berths comprising the existing Chevron Long Wharf facility and is shown in Figure 2.2-1 of the DEIR. The new lease would encompass the same area as the current lease, the CSLC jurisdictional area that includes an area surrounding all the berthing wharves and the causeway to near the shoreline. The facilities within this area are not an impediment to the proposed Bay Trail and the CSLC has no lease jurisdiction over either the shoreline or the upland, which supports the facilities through which the Trail route is proposed.

It may be true that if the lease were denied and the existing terminal decommissioned, the shoreline and upland facilities presently dependent on the Long Wharf could be removed and possibly allow an open area for a shoreline trail. However, it is more likely that Chevron, which would still own and control the upland and its infrastructure, would find other alternative means to supply the refinery with feedstocks and to export products to existing markets. See Section 3 of the DEIR for a discussion of alternatives. Regardless, there are no changes to the proposed Project that would result in a land use plan or policy impact, given that the lease affects only State tide and submerged lands. No changes to such facilities are proposed, and as such, there are no changes in affected land use or zoning classifications. See also response to Comment 3-15.

3-2

Chevron operations are interdependent and occupy upland areas both north and south of the I-580 corridor. Traffic along the I-580 corridor, while an obstacle to planning the Bay Trail route, is not related to the Long Wharf operations located offshore.

3-3

The CSLC acknowledges that the cited planning documents call for and have adopted plans for a Bay Trail. However, their projected alignments for the trail near the Chevron Refinery and the Long Wharf (on the south side of I-580) proceed through or around Point Richmond, following the perimeter of the Chevron property along the south side of I-580, well away from the proposed Project's lease area. Documents also show an alignment for a Bay Trail from the Richmond/San Rafael Bridge north to and around the tip of Point San Pablo. Responses 3-4 through 3-7 provide additional information.

3-4

The DEIR does not describe conflicts with the city of Richmond General Plan (1994), because the proposed lease (proposed Project) area does not extend over the upland area. The Circulation Plan, Map 2 of 2 from

this document, shows a Class I trail, which flows through the city of Richmond and the south side of I-580. The DEIR for the proposed lease renewal of CSLC tide and

submerged lands concluded, accordingly, that there is no conflict with these plans to establish public access along the proposed alignment upland. See also response to Comment 3-15.

3-5

The plans and policies call for a Bay Trail on the cited upland areas. The cited planning documents all show alignments adjacent to the south side of I-580. Contra Costa County's Bicycle and Pedestrian Plan and the MTC Regional Bicycle Plan both present maps for the entire County.

ABAG's Bay Trail alignment clearly proposes to follow the I-580 alignment. ABAG Bay Trail Policy 3 recognizes that there are a range of constraints and that options in the form of spur trails may be required. Policy 3 states: "3. Locate trail, where feasible, close to the shoreline. *A range of constraints—physical, environmental, and safety-related—will prevent the trail from being located entirely along the Bay shoreline. Where a shoreline alignment is feasible, it is the preferred Bay Trail route.*" Further, ABAG recognizes, as one of its main components, that "Where the spine trail does not follow the shoreline, **spur** trails provide access from the spine to points of natural, historic and cultural interest along the waterfront."

(http://www.abag.ca.gov/bayarea_info/baytrail/baytrailplan.html).

Much of the planning documentation text refers/defaults to the EBRPD's plans for a Bay Trail. The 1997 EBRPD Master Plan does not specifically show a trail through the Chevron Refinery, but generally presents a Bay Trail to surround the Bay. The plan describes the trail which would... "traverse a wide variety of terrain, ranging from urban streets, streets to open range lands, irrigation canal banks, utility corridors, and former railroad rights-of-way. The District seeks to acquire and develop trails in usable links, with appropriate connections or terminus points for each link." (EPRPD Master Plan 1997).

As the proposed Project lease area involves only the CSLC tide and submerged lands, the Project neither involves nor includes the lands proposed for the trail. See also responses to Comments 3-4 and 3-15.

3-6

The May 2005 San Pablo Peninsula Open Space Study states that Chevron should be encouraged to work with potential park operators (e.g., EBRPD) to transfer lands on the shore side of Western Drive to a public entity for park and recreation purposes. This report is a study, with recommendations for additional work. It is not an adopted planning document. The study's intent is to assess the potential for open space along the entire San Pablo Peninsula, identify alternatives as well as benefits and constraints of those alternatives, and to recommend the next

steps in the process. Further, the study focuses on the land

north from the Richmond-San Rafael Bridge to Point Molate, and does not involve the proposed Project on CSLC tide and submerged lands. See also responses to Comments 3-4 and 3-15.

3-7

The city of Richmond Land Disposition Agreement involves the property north of I-580 up to and around Point San Pablo. No land south of I-580, including the area where the Long Wharf meets the shoreline, is included in that Agreement.

3-8

The current bicycle pathway linking Point Richmond and Point Molate is not very well marked through the narrow and steep streets of Point Richmond, and occupies the I-580 shoulder in several places, severely limiting its usage and raising safety issues. While there is no designated trail north to Castro Point, Western Drive is used by some bicyclists. The third paragraph on page 4.5-4, lines 33-37, has been corrected.

3-9

The 2001 Questa Engineering Feasibility Study of Bay Trail Routes, which served as a Phase I feasibility study, was identified as such in the first paragraph of Questa's cover letter to the city of Richmond. The Questa Study and addendum both identified Options 2 and 3 for further study. The report recommends further analysis of a wide range of issues, not limited to cost and safety. In anticipation of a Phase II study, this Phase I study requested involved agencies to express their concerns and interests, including Chevron, on rights-of-way (ROW), safety, and security, BCDC on bay fill aspects of design options, ABAG on construction costs and interests of disabled persons, Caltrans on ROW and engineering issues, TRAC on impacts on local neighborhoods, and the CSLC on applicability to the Long Wharf. The August 31, 2001, 3-page addendum apparently compiled the results of the comments from the interested parties. While it is not clearly stated in this document that Option 2 was considered the best route, it is the more upland of the routes.

To the CSLC's knowledge, detailed Phase II studies have not yet been conducted, and no further detailed coordination among the interested parties furthering development of design options has been documented. However, the CSLC will remain active among the interested agencies and involved community groups, and will continue to participate in the process.

3-10

Comment acknowledged.

3-11

Comment acknowledged.

3-12

In the December 17, 2003 Contra Costa Countywide Bicycle and Pedestrian Plan, the referenced alignment is identified at the end of the report as “needed”. Neither Appendix F, Local Projects, nor the attached Project Atlas, appear to identify the alignment as a planned project.

3-13

See responses to Comments 3-4 and 3-15.

3-14

See responses to Comments 3-1 and 3-15.

3-15

Neither the provisions of Division 6 (sections 6001 et seq.) nor of Division 13 (sections 21000 et seq.) of the California Public Resources Code (PRC) enable the CSLC to impose the proposed mitigation.

Section 6301 of the PRC provides, in part,

“The commission has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits, including tidelands and submerged lands or any interest therein, whether within or beyond the boundaries of the State as established by law, which have been or may be acquired by the State (a) by quitclaim, cession, grant, contract, or otherwise from the United States or any agency thereof, or (b) by any other means. All jurisdiction and authority remaining in the State as to tidelands and submerged lands as to which grants have been or may be made is vested in the commission.

The commission shall exclusively administer and control all such lands, and may lease or otherwise dispose of such lands, as provided by law, upon such terms and for such consideration, if any, as are determined by it.”

The term “such lands” in the second paragraph refers solely to those lands described in the first sentence of paragraph one, and specifically, with reference to the proposed Project, “...all ungranted tidelands and submerged lands owned by the State.” Any lands not enumerated in section 6301 are not within the jurisdiction of the CSLC.

Section 15040 (b) of the State CEQA Guidelines states, “CEQA does not grant an agency new powers independent of the powers granted to the agency by other laws.” The provisions of section 15041 of the State

CEQA Guidelines, “Authority to Mitigate” are bounded “Within the limitations described in Section 15040.”

Accordingly, the CSLC is neither empowered to “include conditions in its lease which involve property not owned by it” nor is it required “to mitigate, even where impacts occur with respect to properties not owned by it” as stated in the comment.